

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BETANCOURT PROPERTIES	:	
MANAGEMENT CORP. and RENEWAL	:	
ARTS REALTY CORP.,	:	07 Civ. 11047 (TPG)
	:	
Plaintiffs,	:	OPINION
	:	
- against -	:	
	:	
SIMPLEX GRINNELL LP a/k/a and/or	:	
d/b/a SIMPLEX GRINNELL or	:	
TYCO/FIRE &	:	
SECURITY/SIMPLEXGRINNELL,	:	
	:	
Defendant.	:	
-----X		

<p>USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>2/26/09</u></p>

The fourth cause of action of the complaint alleges anticipatory breach of a five-year service agreement for the fire alarm system at 804 East 138th Street, Bronx, New York. In the opinion dated February 19, 2009, the court held that there should be summary judgment dismissing plaintiffs' anticipatory breach claim.

By letter dated February 20, 2009, plaintiffs request reconsideration on this point. They enclose a copy of the service agreement. The motion for reconsideration is granted.

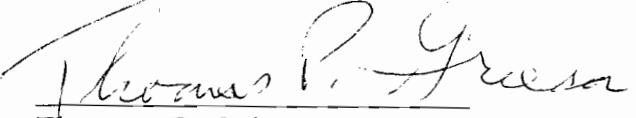
Defendant did not actually move for dismissal of the anticipatory breach claim. Defendant's memorandum of law, dated January 11, 2008, states that defendant is treating the fourth case of action "as a part of Plaintiffs' breach of contract claim." The only point defendant

makes as to the breach of contract claim relates to the issue of consequential damages. This issue is dealt with in the February 19, 2009 opinion, which holds that summary judgment cannot be granted striking the consequential damages claim.

As far as the court's ruling in its February 19, 2009 opinion dismissing the entire anticipatory breach claim is concerned, that ruling is withdrawn.

Dated: New York, New York
February 26, 2009

SO ORDERED


Thomas P. Griesa

U.S.D.J.